

REMARKS

Claims 56-59 and 95-97 are pending in the application, the independent claims being 56, 57, 59, 95, and 97. The independent claims have been amended as discussed with the Examiner during the interview to more clearly claim the computer implementation of the invention, although these amendments do not change the scope of the claims. The “computer system” recited in the amended claims includes one or more computers, which may, for example, be connected by a network. Any of the computers in the recited computer system may perform the recited steps.

Interview

Applicants thank the Examiner for discussing the case on August 13, 2010. During the interview, Mr. Baker gave a presentation discussing the invention, and Applicants discussed the prior art cited in the office action, namely, Dembo, Kiron, and Shearer. Applicants explained that Dembo does not teach a traded fund, and that the secondary considerations of non-obviousness in Mr. Baker’s previous declarations show that it would not have been obvious to combine Dembo with a reference that taught traded funds, and to modify that combination such that an estimated value of the traded fund is calculated based on the value of the proxy portfolio rather than the net asset value of the fund, and where the identities of the assets of the traded fund are not disclosed to an investor who trades shares of the traded fund on a secondary market. In Dembo, the portfolio manager is the same entity desiring a hedge or asset value, but the portfolio manager knows the assets in the target portfolio. This is distinct from the present invention, in which the entity using the estimate of the value of the traded fund does not know the assets of the traded fund.

Applicants distinguished Kiron because that reference relates to using a closed end fund to purchase shares of an open end fund and allowing the closed end fund to trade on an exchange. Thus, while Kiron uses the term “synthetic replication” of the value of the open end funds, in fact the value of the closed end fund directly relates to the value of the open end funds because the

open end funds are the assets held by the closed end fund. Kiron does not disclose the use of factor modeling to estimate the value of the closed end fund, and the assets of the closed end fund are not secret. Kiron gives no indication as to how traders in the closed end fund would know its value other than by the daily disclosure of the net asset value of the underlying open end funds.

Applicants distinguished Shearer because that reference relates to portfolio optimization rather than providing a model to estimate the value of a traded fund. Shearer simply takes into account the cost of portfolio optimization by accounting for whether securities purchased for the portfolio carry a load, i.e., a charge for investing in the security. While Shearer mentions that exchange traded funds can be among the assets held by the portfolio to be optimized, Shearer does not disclose or suggest using a model for a traded fund to estimate the value of the traded fund or secrecy of the traded fund assets.

Applicants thus argued that none of the references, alone or in combination, disclosed or suggested the claimed invention.

The Examiner explained that while the secondary considerations of non-obviousness were persuasive, he required another declaration connecting those secondary considerations to traded funds generally, rather than exchange traded funds specifically. Applicants are filing such a declaration herewith.

Finally, the Applicants and the Examiner reached agreement on claim amendments that would overcome the rejections under 35 U.S.C. § 112.

Conclusion

Prompt and favorable consideration of this Response and Amendment is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Stimson", with a long horizontal flourish extending to the right.

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